

Bureau of Land Management, Interior

§ 2884.17

TAPS, the Department of the Interior will avoid unnecessary employment of personnel and needless expenditure of funds.

§ 2884.13 Who is exempt from paying processing and monitoring fees?

You are exempt from paying processing and monitoring fees if you are a state or local government or an agency of such a government and BLM issues the grant for governmental purposes benefitting the general public. If your principal source of revenue results from charges you levy on customers for services similar to those of a profit-making corporation or business, you are not exempt.

§ 2884.14 When does BLM reevaluate the processing and monitoring fees?

BLM reevaluates the processing and monitoring fees (see § 2885.23 of this part) for each category and the categories themselves within 5 years after they go into effect and at 10-year intervals after that. When reevaluating processing and monitoring fees, BLM considers all factors that affect the fees, including, but not limited to, any changes in:

- (a) Technology;
- (b) The procedures for processing applications and monitoring grants;
- (c) Statutes and regulations relating to the right-of-way program; or
- (d) The IPD-GDP.

§ 2884.15 What is a Master Agreement (Processing Category 5) and what information must I provide to BLM when I request one?

(a) A Master Agreement (Processing Category 5) is a written agreement covering processing and monitoring fees (see § 2885.23 of this part) negotiated between BLM and you that involves multiple BLM grant or TUP approvals for projects within a defined geographic area.

(b) Your request for a Master Agreement must:

- (1) Describe the geographic area covered by the Agreement and the scope of the activity you plan;
- (2) Include a preliminary work plan. This plan must state what work you must do and what work BLM must do to process your application. Both par-

ties must periodically update the work plan, as specified in the Agreement, and mutually agree to the changes;

(3) Contain a preliminary cost estimate and a timetable for processing the application and completing the project;

(4) State whether you want the Agreement to apply to future applications in the same geographic area that are not part of the same project(s); and

(5) Contain any other relevant information that BLM needs to process the application.

§ 2884.16 What provisions do Master Agreements contain and what are their limitations?

(a) A Master Agreement:

(1) Specifies that you must comply with all applicable laws and regulations;

(2) Describes the work you will do and the work BLM will do to process the application;

(3) Describes the method of periodic billing, payment, and auditing;

(4) Describes the processes, studies, or evaluations you will pay for;

(5) Explains how BLM will monitor the grant and how BLM will recover monitoring costs;

(6) Contains provisions allowing for periodic review and updating, if required;

(7) Contains specific conditions for terminating the Agreement; and

(8) Contains any other provisions BLM considers necessary.

(b) BLM will not enter into any Agreement that is not in the public interest.

§ 2884.17 How will BLM process my Processing Category 6 application?

(a) For Processing Category 6 applications, you and BLM must enter into a written agreement that describes how BLM will process your application. The final agreement consists of a work plan and a financial plan.

(b) In processing your application, BLM will:

(1) Determine the issues subject to analysis under NEPA;

(2) Prepare a preliminary work plan;

(3) Develop a preliminary financial plan, which estimates the actual costs

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of processing your application and monitoring your project;

(4) Discuss with you:

(i) The preliminary plans and data;

(ii) The availability of funds and personnel;

(iii) Your options for the timing of processing and monitoring fee payments; and

(iv) Financial information you must submit; and

(5) Complete final scoping and develop final work and financial plans which reflect any work you have agreed to do. BLM will also present you with the final estimate of the costs you must reimburse the United States, including the cost for monitoring the project.

(c) BLM retains the option to prepare any environmental documents related to your application. If BLM allows you to prepare any environmental documents and conduct any studies that BLM needs to process your application, you must do the work following BLM standards. For this purpose, you and BLM may enter into a written agreement. BLM will make the final determinations and conclusions arising from such work.

(d) BLM will periodically, as stated in the agreement, estimate processing costs for a specific work period and notify you of the amount due. You must pay the amount due before BLM will continue working on your application. If your payment exceeds the costs that the United States incurred for the work, BLM will either adjust the next billing to reflect the excess, or refund you the excess under 43 U.S.C. 1734. You may not deduct any amount from a payment without BLM's prior written approval.

§ 2884.18 What if there are two or more competing applications for the same pipeline?

(a) If there are two or more competing applications for the same pipeline and your application is in:

(1) *Processing Categories 1 through 4.* You must reimburse BLM for processing costs as if the other application or applications had not been filed.

(2) *Processing Category 6.* You are responsible for processing costs identified in your application. If BLM cannot

readily separate costs, such as costs associated with preparing environmental analyses, you and any competing applicants must pay an equal share or a proportion agreed to in writing among all applicants and BLM. If you agree to share costs that are common to your application and that of a competing applicant, and the competitor does not pay the agreed upon amount, you are liable for the entire amount due. The applicants must pay the entire processing fee in advance. BLM will not process the application until we receive the advance payments.

(b) *Who determines whether competition exists?* BLM determines whether the applications are compatible in a single right-of-way or are competing applications to build the same pipeline.

(c) If BLM determines that competition exists, BLM will describe the procedures for a competitive bid through a bid announcement in a newspaper of general circulation in the area affected by the potential right-of-way and by a notice in the FEDERAL REGISTER.

§ 2884.19 Where do I file my application for a grant or TUP?

(a) If BLM has exclusive jurisdiction over the lands involved, file your application with the BLM Field Office having jurisdiction over the lands described in the application.

(b) If another Federal agency has exclusive jurisdiction over the land involved, file your application with that agency and refer to its regulations for its requirements.

(c) If there are no BLM-administered lands involved, but the lands are under the jurisdiction of two or more Federal agencies, you may file your application at the BLM office in the vicinity of the pipeline. BLM will notify you where to direct future communications about the pipeline.

(d) If two or more Federal agencies, including BLM, have jurisdiction over the lands in the application, file it at any BLM office having jurisdiction over a portion of the Federal lands. BLM will notify you where to direct future communications about the pipeline.